IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

THURSDAY, THE 16TH NOVEMBER 2006 / 25TH KARTHIKA 1928

WP(C).No. 21265 of 2004(F)

PETITIONERS:
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1. SUSEELA N.B., SUPPLYCO SUPER MARKET,
THRISSUR.

2. T.R.GOPAKUMARY, SUPPLYCO SUPER MARKET
THRISSUR.

3. T.K.LEELA, SUPPLYCO SUPER MARKET,
THRISSUR.

4. K.S.SUBRAMANIAN, HELPER,
SUB DEPOT, POOTHOLE, THRISSUR.

5. K.PANKAJAKSHY, HELPER,
PARAPUR MAVELI STORE, THRISSUR.

6. C.D.AMMINI, HELPER, MAVELI STORE
MULAKUNNATHUKAVU, THRISSUR.

7. A.V.BHAVANI, HELPER,
SUPPLYCO SUPER MARKET, THRISSUR.

8. O.SANTHA KUMARI, HELPER,
LABA MARKET, CHERPPU, THRISSUR.

9. V.V.NALINI, HELPER,
AYYANTHOLE MAVELI STORE, THRISSUR.

10. A.SUBAIDA BEEVI, HELPER,
DISTRICT DEPOT, THRISSUR.

11. A.R.LEELA, HELPER, KANJANI MAVELI STORE,
THRISSUR

12. N.K.RAMACHANDRAN, HELPER,
ARYAMPADAM MAVELI STORE, VADAKKANCHERRY DEPOT,
THRISSUR.

13. P.A.AMMINI, HELPER, ARIMBUR MAVELI STORE, THRISSUR.

14. K.K.KOCHAMMU, HELPER, ANTHIKKAD MAVELI STORE, THRISSUR.

15. K.V.JANARDHANAN, SUB DEPOT, POOTHOLE THRISSUR.

BY ADV. SMT.AYSHA YOUSEFF
SMT.MOLLY JACOB
SRI.RAFFEEKH.K

RESPONDENTS:
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1. KERALA STATE CIVIL SUPPLIES CORPORATION LTD., REPRESENTED BY ITS MANAGING DIRECTOR MAVELI BHAVAN, GANDHI NAGAR, COCHIN.

2. THE GENERAL MANAGER, KERALA STATE CIVIL SUPPLIES CORPORATION LTD., MAVELI BHAVAN, GANDHI NAGAR, COCHIN.

3. THE REGIONAL MANAGER, KERALA STATE CIVIL SUPPLIES CORPORATION LTD., REGIONAL OFFICE, PALAKKAD.

BY ADV. SRI.GEORGE POONTHOTTAM,SC, KSCSC
SRI.JOY GEORGE, SC, SUPPLYCO

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/11/2006,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.21265/2004

APPENDIX

PETITIONERS EXHIBITS

EXHIBIT P1: PHOTOCOPY OF THE AUDIT REPORT AND RE-AUDIT REPORT FOR THE PERIOD 1995-96 CONDUCTED DURING 1999-2000.

EXHIBIT P2: PHOTOCOPY OF THE RECTIFICATION REPORT ON THE RE-AUDIT NOTE OF THE SUPPLYCO SUPERMARKET, THRISSUR FOR THE YEAR 1995-96.

EXHIBIT P3: PHOTOCOPY OF THE MEMO OF CHARGES NO.D1-7207/95 (15) DATED 31.10.01 ISSUED BY THE 3RD RESPONDENT TO THE 7TH PETITIONER.

EXHIBIT P4: PHOTOCOPY OF THE REPRESENTATION SUBMITTED BY THE 7TH PETITIONER TO THE 3RD RESPONDENT.

EXHIBIT P5; PHOTOCOPY OF THE ATTENDANCE REGISTER FOR THE MONTH OF FEBRUARY AND MARCH MAINTAINED BY THE 1ST RESPONDENT CORPORATION.

EXHIBIT P6: PHOTOCOPY OF THE CIRCULAR NO.32/98 DATED 23.05.98 ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P7: PHOTOCOPY OF THE ORDER NO.D1.7207/97 DATED 11.02.2003 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONERS FIXING LIABILITY ON THE PETITIONERS.

EXHIBIT P8: PHOTOCOPY OF THE PROCEEDINGS NO.E15-8359/03 DATED 23.03.2004 OF THE 2ND RESPONDENT REJECTING THE APPEAL.

EXHIBIT P9: PHOTOCOPY OF THE PROCEEDINGS NO.D1-7207/97 DATED 11.02.03 OF THE 3RD RESPONDENT.

EXHIBIT P10: PHOTOCOPY OF THE REPRESENTATION BY THE PETITIONERS TO THE 1ST RESPONDENT DATED 26.06.2004.

//TRUE COPY//

P.S. TO JUDGE

P.R. RAMAN, J.

W.P.© 21265/2004

DATED THIS, THE 16TH DAY OF NOVEMBER, 2006.

J U D G M E N T

Petitioners are all helpers working in different Super Markets belonging to the Civil Supplies Corporation. So however, during the relevant period – 1995-96, at one spell or other they were working in the Super Market at Thrissur. Based on an audit report Ext.P1, action was initiated for recovery of the loss of an amount of Rs. 1,91.093/- occurred from the said Super Market. Notices were issued. They were heard and finally the liability was fixed as per Ext.P7. This liability was fixed based on Ext. P6 Circular No.32/98, as per which the liability has to be apportioned between the Assistant Manager Assistants and helpers in the ratio 1:2:2. Except the 15th petitioner, all of them admittedly were working in the Super Market in question.

2. In the case of the 15th petitioner, though it is shown that he had worked in the Super Market in question for the period 20.2.1996 to 1.3.1996, it is the specific case of the petitioners that on the same day on

which he was posted in the unit, he proceeded on leave and therefore he did not work in the Super Market at all during the period in question. In support thereof, Ext.P5 attendance register is also produced. This aspect of the matter is not, however, controverted in the counter affidavit filed by the respondent. Therefore, accepting the contention of the 15th petitioner, the liability as fixed in Ext.P7 against him will stand deleted.

3. As respect to petitioners 1 to 14, though the learned counsel would contend that there is no basis for fixing the liability based on a circular, in view of the fact that the ultimate liability fixed is only a meager amount, it was fairly submitted by the learned counsel that this question may be left open to be decided in appropriate cases. Coming to the quantum as fixed in Ext.P7, it is contended that the whole proceedings were initiated on the premise that the loss sustained from the Super Market was an amount of Rs. 1,91,093.78. In para 5 of the counter affidavit, it is conceded that the said amount has been reduced based on a re-audit and the total liability for the period in question is only 71,786/-. If so, necessarily, petitioners 1 to 14 as Helpers will be liable only to 2/5 of the total amount. Since no notice pursuant to Ext.P7 is issued to the petitioners, fixing of their actual liability, the respondents shall take into consideration the revised liability fixed as

averred in para 5 and will recalculate the amount accordingly and fresh notices shall be issued to the petitioners.

4. Though the petitioners seek to quash Exts.P7 and P8 orders, in the light of the counter affidavit and in view of what is stated above, it is not necessary to quash those orders as such. But at the time of actual recovery, the benefits as stated above shall be extended to the petitioners.

The writ petition is disposed of as above.

P.R. RAMAN,
(JUDGE)

knc/-